



सत्यमेव जयते

The Gujarat Government Gazette

SUPPLEMENT TO THE CENTRAL GAZETTE AND CENTRAL SECTION

PUBLISHED BY AUTHORITY

VOL. LXV] THURSDAY, 12th DECEMBER, 2024/AGRAHAYAN 21, 1946 [No. 240

Separate paging is given to each part of the supplement to the Central Gazette and Central section in order that it may be filed as a separate compilation

PART-II

EXTRAORDINARY

INDIA INTERNATIONAL CLEARING CORPORATION (IFSC) LIMITED

Registered Office :1st Floor, Unit No. 102, The Signature, Building no. 13B,
Road 1C, Zone 1, GIFT SEZ, GIFT City, Gandhinagar, Gujarat – 382355

Ref. No. INDIAICC/REG/12/2024

The Byelaws of India International Clearing Corporation (IFSC) Limited are amended as under:

Chapter I–Definition

The following definitions shall be inserted:

1.6 Broker Dealer

“Broker Dealer” means a person having trading rights in any recognised stock exchange and includes a trading member.

1.16 IFSCA

‘IFSCA’ shall mean International Financial Services Centres Authority established under the International Financial Services Centres Authority Act, 2019

1.21 Novation

“Novation” means the act of a clearing corporation interposing itself between both parties of every trade, being the legal counterparty to both.

1.22 Public Interest Director

“Public Interest Director” means an independent director representing the interests of investors in securities market in an IFSC and who is not having any association, directly or indirectly, which in the opinion of the Authority, is in conflict with his role;

The following definition shall be deleted:

1.14 Guidelines

“Guidelines” shall mean Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015 in force from time to time.

1.28 SECC Regulations

“SECC Regulations” means Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012;

1.31 Trading Member

“Trading Member” means any person which is admitted as a member of the Exchange and the term “Trading Membership” shall be construed accordingly.

The following definitions shall be modified as under:

1.5 Clearing Corporation

“Clearing Corporation” means India International Clearing Corporation (IFSC) Limited; (‘India ICC’)

1.9 Client/Constituent

A client/Constituent means a person, on whose instructions and on whose account the Clearing Member clears and settles deals. For this purpose, the term “Client” shall include all registered constituents of Broker Dealers of Specified Exchange.

Explanation 1: The terms ‘Constituent’ and ‘Client’ are used interchangeably in the Byelaws, Rules & Regulations and shall have the same meaning assigned herein.

Explanation 2: The term ‘Constituent’ in relation to trades shall also include a Broker Dealer where such trades done on the Specified Exchange are cleared and settled on his behalf by a Clearing Member.

1.10 Committee

“Committee/s” mean the committees formed by the Board of Directors of the Clearing Corporation in accordance with the decision of the relevant authority or as directed by IFSCA from time to time.

1.18 Interpretation

Unless in the context it is explicitly stated otherwise, all words and expressions used in these Regulations but not defined, and defined in the following, shall have the meanings respectively assigned to them therein:

- (1) Securities Contract (Regulations) Act, 1956 and the Rules/Regulations made there-under
- (2) The Securities and Exchange Board of India Act, 1992 and the Regulations made there-under
- (3) International Financial Services Centres Authority Act, 2019
- (4) IFSCA (Market Infrastructure Institutions) Regulations, 2021, as amended up to November 01, 2024
- (5) Depositories Act, 1996 and the Regulations framed there under
- (6) Companies Act, 1956/the Companies Act, 2013
- (7) Rules, Bye-laws and Regulations of the Exchange
- (8) Rules and Bye-laws of the Clearing Corporation.

In case a term is defined in more than one of the above, then such term will derive its meaning from the statute (along with the Rules, Bye-laws and/or Regulations) provided prior in the order above, unless it is explicitly stated otherwise.

Headings shall not affect the construction or interpretation of any Rule;

Words importing masculine gender shall include feminine gender and vice versa and neutral gender in the case of companies, corporations, firms, etc., unless the context otherwise requires. Any defined term herein may or may not be capitalized in the Rules, Bye-laws and Regulations and shall not convey a different meaning merely by reason of non-capitalisation of such term, unless the context requires otherwise.

1.19 Issuer

“Issuer” shall include a company incorporated in India or a company or any entity incorporated in a foreign jurisdiction, which is permitted by the IFSCA to raise capital in foreign currency other than Indian Rupee.

1.20 Member

“Member/s” as the context may require, means either the Broker Dealer or the Clearing Member or both;

1.29 Security/ies

“Security/ies” shall mean and include:-

- i) Equity shares of a company incorporated outside India;
- ii) Depository receipt(s);
- iii) Debt securities issued by eligible issuers;
- iv) Currency and interest rate derivatives;
- v) Index based derivatives;
- vi) Commodities derivatives;
- vii) Such other securities/derivatives/products of any kind as may be permitted by IFSCA from time to time;

1.26 Relevant Authority

“Relevant Authority” shall mean the Board, IFSCA, Managing Director of Clearing Corporation, Exchange, such other person or committee, as the context may admit or require, or any person/committee as may be specified by the Board from time to time.

1.27 Rules

“Rules”, unless the context indicates otherwise, means the rules framed by the Clearing Corporation from time to time in accordance with the provisions of the Securities Contracts (Regulation) Act, 1956, International Financial Services Centres Authority (Market Infrastructure Institutions), Regulations 2021 or in accordance with the directions of IFSCA from time to time.

1.32 Securities Laws

“Securities Laws” includes the SCRA, SEBI Act Depositories Act 1996, Companies Act 1956 and 2013, International Financial Services Centres Authority Act, 2019 and such other Acts, Regulations and Rules framed thereunder and any statutory modification or re-enactment thereto, the circulars, notifications, directives, guidelines made or issued thereunder by Central Government or IFSCA or any other concerned authority to facilitate and regulate financial services relating to securities market in Special Economic Zone from time to time.

For the purpose of this chapter, the serial numbers shall accordingly be renumbered.

Chapter III – Committee(s)**The following provisions shall be modified as under**

- 3.1 “Committee(s) shall be appointed by the Board in accordance with the procedure laid down in the Rules and in the Articles of Association of the Clearing Corporation or as specified by IFSCA or any other Relevant Authority from time to time. The role of each Committee shall be as determined by the Board as instructed. The composition, quorum, functions etc. of the Committees would be as specified by IFSCA from time to time.”
- 3.2 The Board may constitute other Committee(s) in addition to the Committees specified by IFSCA, which shall have such responsibilities and powers as delegated by the Board from time to time.

Chapter IV – Regulations**The following provisions shall be inserted as under**

- 4.2 (n) Settlement of disputes, complaints, claims arising between clearing members inter se as well as between clearing members and persons who are not clearing members relating to any deal in securities cleared and settled through clearing corporation including settlement by arbitration or any other forms of dispute resolution.

4.2 (o) Norms & procedures for arbitration

The following provisions shall be omitted as under

- 4.2(b) Norms, procedures, terms and conditions to be complied with for admission of Deals for clearing and settlement by the Clearing Corporation.

For the purpose of this chapter, the serial numbers shall accordingly be renumbered

Chapter VI – Clearing and Settlement of Deals

The following provisions shall be modified as under

6.1.3 Settlement and Netting

- (1) The payment and settlement in respect of a transaction executed on the Exchange shall be determined in accordance with the netting or gross procedure as specified in the Bye-Laws of the Exchange and/or the Clearing Corporation, with the prior approval of the IFSCA.
- (2) Payment and settlement in respect of a transaction between parties referred to in the above Bye-Law (1), effected under the Bye-Laws of the Exchange or the Clearing Corporation, shall be final, irrevocable and binding on Clearing Members
- (3) When a settlement has become final and irrevocable, the right of the Exchange or the Clearing Corporation, as the case may be, to appropriate any collaterals or deposits or margins contributed by the Broker Dealer, clearing member or client towards its settlement or other obligations in accordance with the Bye-Laws of the Exchange or the Clearing Corporation shall take priority over any other liability of or claim against the said Broker Dealer, clearing member or client, as the case may be.

Explanation. – For removal of doubts, it is hereby declared that the settlement, whether gross or net, referred to in this Bye-Law is final and irrevocable as soon as the money, securities or other transactions payable as a result of such settlement is determined, whether or not such money, securities or other transactions is actually paid.

The following provisions shall be inserted as under

- 6.19** A deal admitted for clearing and settlement may be transferred to another non defaulting clearing member with his consent on the failure of a clearing member to comply with any of the provisions relating to delivery, payment and settlement of deals or on any failure to fulfil the terms and conditions subject to which the deal has been made, or such other circumstances as the Relevant Authority may specify from time to time. The deal may be transferred to another non defaulting clearing member by the Clearing Corporation in such manner, within such time frame, and subject to such conditions and procedures as the relevant authority may prescribe from time to time

For the purpose of this chapter, the serial numbers shall accordingly be renumbered

Chapter VII – Dealings by Clearing Members

The following provisions shall be inserted as under

7.1 Jurisdiction

- 7.1.1 The provisions of this Byelaw shall not object the jurisdiction of any court deciding any dispute as between Clearing Members and their Constituents to which the Clearing Corporation is not a party

The following provisions shall be modified as under

7.5 Inviolability of Admitted Deals

All dealings in securities on the Clearing Corporation made subject to the Rules, Bye-Laws and Regulations of the Clearing Corporation shall be inviolable and shall be cleared and settled in accordance with these Bye-Laws and Regulations of the Clearing Corporation. Provided that the deals are not annulled by the Exchange in the manner prescribed by IFSCA/the Exchange from time to time.

For the purpose of this chapter, the serial numbers shall accordingly be renumbered

Chapter VIII – Margins

The following provisions shall be modified as under

8.1 Margin Requirements

- 8.1.2 Every Clearing Member has continuing obligation to maintain margins at such levels and during such periods as may be stipulated by the Clearing Corporation from time to time. Out of the margins so required to be deposited and maintained by a Clearing Member, margins deposited by Clearing Members on their own account and on behalf of their Constituents or the Broker Dealers of an Exchange, shall be segregated by the Clearing Corporation in such manner as it may deem fit.

8.6 Utilisation for failure to meet obligations

In the event of the Clearing Member failing to meet its obligations to the Clearing Corporation arising out of clearing and settlement operations of such deals as provided in these Bye-Laws and Regulations, the Relevant Authority shall be entitled to utilise any amount paid by the Clearing Member to the Clearing Corporation either in the form of margin, deposit, security or in any other form or any other payment retained by the Clearing Corporation for the purpose of clearing and settlement of the deals of such Clearing Member.

Chapter IX – Rights, Duties and Liabilities of Clearing Members and Constituents

The following provisions shall be modified as under

9.8 Relationship between the Clearing Member and Constituent

Without prejudice to any other law for the time being in force and subject to these ByeLaws, the mutual rights and obligations inter se between the Clearing Members and their Constituents shall be such as may be prescribed by the Relevant Authority and/or IFSCA from time to time.

Association

A clearing member shall not be entitled to clear trades on the Clearing Corporation unless there is a valid and subsisting agreement in accordance with a specified format between a broker dealer and a clearing member as may be specified by IFSCA.

Disassociation

If a clearing member wants to disassociate itself from a broker dealer, it shall intimate the relevant authority of such disassociation. Upon such intimation:

- (i) the broker dealer shall not be entitled to trade on the Exchange until it has associated with another clearing member in the manner mentioned in these Bye-law; and
- (ii) the open positions of such broker dealer (whether on its own account or on account of its constituents) may, in the discretion of the clearing member, be closed out or transferred.

Even after such disassociation the clearing member shall continue to be liable to clear and settle all open positions and trades/deals of the broker dealer, which were entered into by the broker dealer prior to the date of such disassociation.

9.9 Closing-out in the event of bankruptcy/ insolvency/dissolution

A Clearing Member may close-out all open transactions on account of a Constituent or a Broker Dealer of the Exchange, becoming bankrupt or insolvent or making or attempting to make a composition with his/its creditors or with any of them or who shall have given any admission or intimation or indication of the fact that he/it will be unable to fulfill his/its obligations or who in case of a firm undergoes dissolution.

9.10 Release of funds and securities by Clearing Members

A Clearing Member shall make payout of funds and Securities in such manner so as to ensure full and timely compliance of all relevant requirements in this regard as may be prescribed by IFSCA/Clearing Corporation.

9.13 Segregation of Dues

The accounts of the Constituent of the Clearing Member, the Broker Dealers of an Exchange for whom the Clearing Member is acting as a Clearing Member and the clients of such Broker Dealers of an Exchange, shall be segregated from each other and the amounts and assets standing to the debit and credit of a Clearing Member or a Constituent shall not be adjusted against the credit or debit of another Constituent or Clearing Member and one Client's or Clearing Member's funds or assets shall not be utilised for payment of another Constituent's or Clearing Member's dues. Obligations payable by a Clearing Member on its own account shall not be paid or met out of money / assets of a Constituent or Broker Dealers of an Exchange. However amounts or assets payable / deliverable to a Clearing Member (on its own account) by the Clearing Corporation may be applied for paying amounts /assets payable / deliverable by the Clearing Member or by any Constituent of the Clearing Member or any Broker Dealer of an Exchange (whose trades the Clearing Member had agreed to clear) or any client of such Broker Dealers of an Exchange, the Clearing Corporation or any Member or any Constituent of the Clearing Member or of any Broker Dealers of an Exchange (whose trades the Clearing Member had agreed to clear).

Chapter X – Default

The following provisions shall be inserted as under

10.1 Declaration of Default

- 10.1.6 if he fails to abide by the arbitration award as laid down the Rules, Bye Laws and Regulations of the Clearing Corporation; or
- 10.1.11 if it, being a company incorporated under the Companies Act, files a petition before a Court of Law for adjudication of itself as insolvent or for its winding up or an insolvency application admitted against it in accordance with the provisions of the Insolvency and Bankruptcy Code 2016 or any other analogous bankruptcy laws applicable to him/it, as the case maybe in the jurisdiction where the company is incorporated and/or has its primary place of business.

Explanation: The relevant authority may suspend a member if it has reason to apprehend that a member is likely to commit any of the above mentioned acts or omissions

10.25 Expulsion in Certain Cases

Without prejudice to the provisions of the Rules and the foregoing, if a member is expelled by any other recognised stock exchange or clearing corporation or if the member's registration certificate is cancelled by IFSCA, the said member may be expelled from the Clearing Corporation after providing an opportunity of being heard to such member, unless IFSCA directs otherwise from time to time.

Notwithstanding anything contained in this Bye-law, the membership right of such member shall be forthwith suspended and the facility of such member shall be withdrawn immediately after the receipt of information of expulsion by any other stock exchange/clearing corporation or cancellation of registration certificate by IFSCA.

The following provisions shall be modified as under

10.1 Declaration of Default

- 10.1.10 without prejudice to the foregoing provisions contained in Bye-Law 11.1, where the Clearing Member, who is also a Broker Dealer the Exchange is declared a defaulter by such Exchange, the said Clearing Member shall ipso facto stand declared a defaulter by the Relevant Authority.

10.5 Notice to the Exchange

On the Clearing Member being declared a defaulter, a notice shall be forthwith issued by the Relevant Authority to the Exchange if the Clearing Member is also a Broker Dealer of that Exchange and similarly to the other exchange and clearing corporation situated at the IFSC.

10.10 Defaulter's Assets

The Relevant Authority shall call in and realise the security deposits in any form, margin money, other amounts lying to the credit of and securities deposited by the defaulter and recover all moneys, securities and other assets due, payable or deliverable to the defaulter by any other Clearing Member in respect of any Deal or dealing made subject to the ByeLaws, Rules and Regulations of the Clearing Corporation and such assets shall vest ipso facto, on declaration of any Clearing Member as a defaulter, in the Clearing Corporation for the benefit of and on account of the Clearing Corporation, the Exchange, IFSCA, other Clearing Members, Constituents of the defaulter, approved banks and any other persons as may be approved by the Relevant Authority and Exchange / Clearing Corporation.

10.24 Default in case of Multiple Membership

- ii. The Clearing Corporation shall take appropriate action against the associate(s) of defaulter member. In this regard, 'associate(s)' shall have the meaning as defined by IFSCA.

For the purpose of this chapter, the serial numbers shall accordingly be renumbered

Chapter XI – Settlement Guarantee Fund and Defaults subsequent to commencement of operation of settlement guarantee fund

The following provisions shall be inserted as under

11.2 Management of the Fund

- (c) (xii) The sufficiency of the corpus of the fund shall be tested by way of periodic stress tests, in the manner specified by the Authority.

The following provisions shall be modified as under

11.1.1 (a) "Associate" in relation to a person shall include another person:

- i) who, directly or indirectly, by himself, or in combination with other persons, exercises control over the first person
- ii) who holds more than twenty per cent of the total voting power of the first person
- iii) who is a holding company or a subsidiary company of the first person
- iv) who is a relative of the first person
- v) who is a member of a Hindu Undivided Family wherein the first person is also a member; or

such other cases where IFSCA is of the view that a person shall be considered as an associate based on the facts and factors including the extent of control, independence, conflict of interest.

- 11.1.3 (a)** The Clearing Corporation shall establish a fund as determined under Bye-law which shall be known as the "Settlement Guarantee Fund" or by such nomenclature as Clearing Corporation may specify, in such manner as may be prescribed by IFSCA from time to time and such Fund shall be used for such purposes as specified herein or as specified by IFSCA from time to time.

11.2 Management of the Fund

- (a) The Defaulter's Committee/SGF Utilization Committee of the Clearing Corporation or such other Committee as may be prescribed by the Relevant Authority from time to time shall manage the Fund.

11.5 Composition of Funds

- 1. Subject to circular/direction issued by IFSCA from time to time, the contributions of various contributor to the Fund shall be such as specified by Clearing Corporation. Clearing Corporation shall have the flexibility to collect Clearing Member's primary contribution either upfront or staggered over a period. In case of staggered contribution, the remaining balance shall be met by the Clearing Corporation to always ensure adequacy of the total corpus of the Fund. Such contribution of the Clearing Corporation shall be available to the Clearing Corporation for withdrawal as and when further contribution from the Clearing Members is received.

4. Clearing Corporation shall ordinarily accept cash collateral for the contribution of the Clearing Members to the Fund. However, Clearing Corporation may accept Clearing Member's contribution in the form of bank fixed deposits or any other form as may be prescribed by the Relevant Authority from time to time. The Clearing Corporation shall adhere to the specific guidance which may be issued by IFSCA from time to time in this regard.

11.15 Certain claims not be entertained

- III) (c) connected to payment or repayment of a deposit or loan (other than a deposit or loan under or pursuant to an Approved Scheme).
- IV) For determining whether a clearing member is entitled for the payment from the Fund, the Relevant Authority shall be entitled to consider, inter alia, the surrounding circumstances, the usual course of dealings on the Clearing Corporation, the relationship between the defaulter and the claimant, the quantity and price of the securities involved in the transaction, other transactions in the same scrip and such other matters as the Relevant Authority thinks fit.

11.19 Utilisation of Money and Property for Payment and Order of Priority

- (5) Remaining Clearing Corporation resources (excluding Clearing Corporation contribution to any other Funds required for recovery and resolution).
- (6) Capped additional contribution by non-defaulting members of the segment (subject to such cap as may be decided by the Clearing Corporation in consultation with IFSCA).

11.21 Application of Defaulters' Assets and Other Amounts

- 1(b) Second - the payment of such subscriptions, debts, fines, fees, charges and other money as shall have been determined by the Relevant Authority to be due to the Clearing Corporation or to IFSCA or to the Exchange, in the order of priority as mentioned hereinabove.

For the purpose of this chapter, the serial numbers shall accordingly be renumbered

The following chapters shall be inserted as under

Chapter – XII Arbitration

All claims, disputes, differences, arising between Clearing Members and Constituents or between Clearing Members inter se or between such other parties as specified by the relevant authority from time to time, arising out of or related to deals admitted for clearing and settlement by the Clearing Corporation or with reference to anything done in respect thereto or in pursuance of such deals shall be referred to and decided by arbitration, mediation and other dispute resolution mechanisms offered by such International Arbitration Centres in IFSC as specified by the relevant authority from time to time.

Chapter XIII – Voluntary And Involuntary Winding Down And Bankruptcy Of The Clearing Corporation

13.1. Definitions:

13.1.1. Winding Down/Wind Down of the Clearing Corporation

Winding Down of the Clearing Corporation shall mean the procedure for the termination of critical operations and services of the Clearing Corporation.

13.1.2. Critical Operations and Services of the Clearing Corporation

The operations and services such as collateral management, risk management, clearing and settlement shall be deemed to be critical operations and services of the Clearing Corporation.

Further, the contractual obligations of the Clearing Corporation with clearing members, stock exchange(s), depositories and other clearing corporation(s), as applicable, arising out of clearing and settlement of trades, shall also be critical.

13.2. Scenarios for Winding Down of Clearing Corporation

The Clearing Corporation may Wind Down its operations voluntarily or involuntarily in the following scenarios:

13.2.1. Voluntary Winding Down of the Clearing Corporation

The Clearing Corporation is solvent and is able to meet all its obligations to both Clearing Members as well as other creditors but chooses to wind down, i.e. cease its business operations and exit the business as a strategic / business decision.

13.2.2. Involuntary Winding Down of the Clearing Corporation

Involuntary Winding Down of the Clearing Corporation may be for the following reasons::

13.2.2.1. Winding Down of the Clearing Corporation due to default losses

A single large default by a Clearing Member or simultaneous defaults by clearing members may exhaust the default management resources maintained by the Clearing Corporation and the Clearing Corporation may become unable to fulfil its obligations towards clearing members.

13.2.2.2. Winding Down of the Clearing Corporation due to other factors

The Clearing Corporation may need Winding Down due to large operational / non-operational expenses and / or business / investment losses, leading to Clearing Corporation being unable to make payments to creditors and erosion of Clearing Corporation's net-worth, even though there are no clearing member/s' defaults, and the settlements are happening in a timely manner.

13.2.2.3. Winding Down of the Clearing Corporation due to regulatory actions as directed by IFSCA.

IFSCA may direct the Clearing Corporation to wind down its critical operations and services in case of non-compliance of either the conditions of grant of recognition or renewal, wherever applicable; or any other condition under the applicable laws.

13.3. Winding Down procedure**13.3.1. Voluntary Winding Down of the Clearing Corporation:**

Voluntary winding down of the Clearing Corporation shall be approved by the Board, shareholders of the Clearing Corporation, National Company Law Tribunal (NCLT) and / or any other statutory authorities as may be applicable. After the approval of the Board, shareholders, NCLT and / or any other statutory authorities as may be applicable, the Clearing Corporation shall approach IFSCA for approval.

After receiving the approval of IFSCA, the Clearing Corporation shall inform the market participants regarding its decision to Wind Down voluntarily and shall also mention a sufficient notice period of at least three months or such other time period as maybe decided by the Relevant Authority for Winding Down, so as not to have an adverse impact on the financial system.

Since the Clearing Corporation is solvent, it will have the choice of continuing full range of operations or perform only critical operations and services during the Winding Down period. However, critical operations and services of the Clearing Corporation will be continued during the notice period.

13.3.1.1. The procedure for voluntary Winding Down shall be as follows:

If the Exchange intends to continue its business, it must engage with another clearing corporation (Designated Clearing Corporation) within the notice period by entering into necessary arrangements with it. Clearing Members of the Clearing Corporation will have to become member of the Designated Clearing Corporation, before the end of the notice period. Any open positions at the Clearing Corporation will be transferred to the Designated Clearing Corporation at the end of notice period. The collaterals, margins, deposits or any other assets of the clearing member/s shall also be transferred to the Designated Clearing Corporation as per arrangement entered into with the Designated Clearing Corporation. Alternatively, members who do not wish to continue their operations, may close-out their open positions and exit the Clearing Corporation by surrendering their membership.

Any open positions that cannot be transferred on account of members failing to create clearing arrangements at the Designated Clearing Corporation within notice period, or the Exchange being unable to engage the Designated Clearing Corporation in the notice period, will be closed out at the daily settlement price of the Termination Day and in terms of the provisions of the Rules, Byelaws and Regulations of the Clearing Corporation.

Termination Date for the purpose of this chapter shall be the date on which all outstanding positions shall expire at the daily settlement prices, and a single claim / receipt will be arrived at for each Clearing Member.

13.3.1.2. Procedure for close out of positions / payout to members in case of voluntary Winding Down shall be as follows:

1. The Clearing Corporation shall announce a Termination Date, with the approval of IFSCA.
2. All open positions shall expire at the daily settlement prices of the Termination Date, and a single claim / receipt amount will be arrived at for each Clearing Member.
3. The close out transaction or claim amount shall be settled by payment to the Clearing Member, in case of member's gain, or by receipt from the member, in case of member's loss (mark to market settlement).
4. The close out transaction or claim amount shall be settled the day following the Termination Date but not later than two days following the Termination Date.
5. Before paying out any amount under the above sub-clauses, Clearing Corporation shall have the right to recover therefrom any amount payable by the member to Clearing Corporation (obligations of the Clearing Corporation to the Clearing Member in respect of Clearing Member's positions, account balances, collaterals and the unutilized settlement guarantee fund contributions shall be netted against the obligation of such Clearing Member to the Clearing Corporation and the net amount if any would be paid to the Clearing Member).
6. The clearing and settlement and any other operations as determined by the Clearing Corporation, will be halted from next day after the Termination Date.
7. The close-out transactions shall be final and binding upon the member.

13.3.2. Involuntary Winding Down of the Clearing Corporation:

13.3.2.1. Winding Down of the Clearing Corporation due to default losses

13.3.2.2. Winding Down of the Clearing Corporation due to non-default losses other factors **13.3.2.3.** Winding Down of the Clearing Corporation due to regulatory actions as directed by IFSCA

Involuntary winding down of the Clearing Corporation shall be approved by the Board, shareholders of the Clearing Corporation, National Company Law Tribunal (NCLT) and / or any other statutory authorities as may be applicable. After the approval of the Board, shareholders, NCLT and / or any other statutory authorities as may be applicable, the Clearing Corporation shall approach IFSCA for approval, unless the winding down is due to an order of IFSCA, such as non-recognition of the Clearing Corporation etc.

After receiving the approval of IFSCA, the Clearing Corporation shall inform the market participants regarding its decision to wind down involuntarily and shall also mention a sufficient notice period as determined by the Relevant Authority for winding down, so as not to have an adverse impact on the financial system.

The Clearing Corporation will have the choice of continuing full range of operations or perform only critical operations and services during the Winding Down period. However, critical operations and services of the Clearing Corporation will be continued during the notice period.

13.3.2.4. The procedure for involuntary Winding Down shall be as follows:

If the Exchange intends to continue its business, it must engage with another clearing corporation (Designated Clearing Corporation) within the notice period by entering into necessary arrangements with it. Clearing Members of the Clearing Corporation will have to become member of the Designated Clearing Corporation before the end of the notice period.

Any open positions at the Clearing Corporation will be transferred to the Designated Clearing Corporation at the end of notice period. The collaterals, margins, deposits or any other assets of the clearing member/s shall also be transferred to the Designated Clearing Corporation as per arrangement entered into with the Designated Clearing Corporation. Alternatively, members who do not wish to continue their operations, may close-out their open positions and exit the Clearing Corporation by surrendering their membership.

Any open positions that cannot be transferred on account of members failing to create clearing arrangements at the Designated Clearing Corporation within notice period, or the Exchange being unable to engage the Designated Clearing Corporation in the notice period, will be closed out at the daily settlement price of the Termination Day and in terms of the provisions of the Rules, Byelaws and Regulations of the Clearing Corporation.

Termination Date for the purpose of this chapter shall be the date on which all outstanding positions shall expire at the daily settlement prices, and a single claim / receipt will be arrived at for each Clearing Member.

13.3.2.5. The procedure for close out of positions / payout to members in Winding Down scenarios under 14.3.2.1, 14.3.2.2 and 14.3.2.3 shall be as follows:

1. The Clearing Corporation shall announce a Termination Date, with the approval of IFSCA.
2. All open positions shall expire at the daily settlement prices of the Termination Date, and a single claim / receipt amount will be arrived at for each Clearing Member.
3. The close out transaction or claim amount shall be settled by payment to the Clearing Member, in case of member's gain, or by receipt from the member, in case of member's loss (mark to market settlement).
4. The close out transaction or claim amount shall be settled the day following the Termination Date but not later than two days following the Termination Date.
5. Before paying out any amount under the above sub-clause, Clearing Corporation shall have the right to recover therefrom any amount payable by the member to Clearing Corporation (obligations of the Clearing Corporation to the Clearing Member in respect of Clearing Member's positions, account balances, collaterals and the unutilized settlement guarantee fund contributions shall be netted against the obligation of such Clearing Member to the Clearing Corporation and the net amount if any would be paid to the Clearing Member).
6. The clearing and settlement and any other operations as determined by the Clearing Corporation, will be halted from next day after the Termination Date.
7. The close-out transactions shall be final and binding upon the member.

13.4 Winding Down of the Clearing Corporation due to its consolidation / merger / amalgamation etc.

Winding Down of the Clearing Corporation due to its consolidation / merger / amalgamation with another entity, would be carried out as per the scheme of arrangement, framework issued by the Relevant Authority, followed by the approval(s) from IFSCA and other statutory authorities as applicable.

13.5. Bankruptcy of the Clearing Corporation

13.5.1. Where, by an order of a Court, Tribunal or an authority

- a) Clearing Corporation is declared as insolvent or is dissolved or wound up; or
- b) A liquidator or receiver or assignee (by whatever name called) whether provisional or otherwise, is appointed in a proceeding relating to insolvency or dissolution or winding of Clearing Corporation, all the outstanding positions with Clearing Corporation shall stand terminated forthwith by way of close-out at the mark to market prices of the Clearing Corporation as at the end of previous business day.

13.5.2. On such close-out, the member-wise net mark-to-market loss or gain (as the case may be) in respect of the positions shall be determined and notified to each Member. The net mark to market loss or gain so arrived at shall constitute the termination amount for each Clearing Member. The termination amount shall be settled by payment to the Clearing Member, in case of member's gain, or by receipt from the member, in case of member's loss.

- 13.5.3.** The termination amount shall be settled as at the close of business on the business day following the day of termination but not later than two business days following the day of termination. Any non-recovery of termination amount from any of the Clearing Members within this period shall be considered as a “Default” by the member and shall be handled in accordance with the provisions of Bye-Laws, Rules and Regulations as applicable.
- 13.5.4.** Before paying out any amount under this clause, Clearing Corporation shall have the right to recover therefrom any amount payable by the Clearing Member to Clearing Corporation (obligations of the Clearing Corporation to the Clearing Member in respect of Clearing Member’s positions, account balances, collaterals and the unutilized settlement guarantee fund contributions shall be netted against the obligation of such Clearing Member to the Clearing Corporation and the net amount if any would be paid to the Clearing Member).
- 13.5.5.** The close-out transactions shall be final and binding upon the Clearing Member.

13.6 Return of assets

Collateral and membership deposits of non-defaulting members and the unutilized settlement guarantee fund contributions of Clearing Members and Exchange(s) will be returned by the Clearing Corporation to the respective contributors after netting off against the dues of the Clearing Members to the Clearing Corporation, statutory dues including applicable taxes, dues to the regulatory authorities, if any, as the case may be depending upon the scenario triggering winding down of critical operations and services. Return of assets would also be as per the guidelines that may be issued by the Government, IFSCA or any other statutory authorities from time to time.

For India International Clearing Corporation (IFSC) Limited

Gunjan Mirani
Chief Risk & Regulatory Officer

